NORDIN BIN OTHMAN

v.

FEDERAL LAND DEVELOPMENT AUTHORITY

HIGH COURT, KUALA LUMPUR
TUAN EE CHIN SENG JC
[CIVIL SUIT NO. S6-24-2545-89]
25 NOVEMBER 1993

ADMINISTRATIVE LAW: Dismissal - Declaratory order that dismissal is null and void - Applicant was confirmed in his employment as a permanent clerk with FELDA - Whether dismissal ultra vires Felda Act 1956 - Breach of natural justice - Article 8 Federal Constitution - Punishment - Whether dismissal order was too harsh and unreasonable.

This was an action by the plaintiff against the defendant, i.e. Felda for a declaration that the purported dismissal by the defendant was null and void and/or invalid and that the plaintiff is entitled to be restored to his former position as a general clerk of permanent status and be paid his salary and all other relevant emoluments and benefits which go along with the job.

Held:

[1] The plaintiff's application for a declaratory order that the plaintiff's termination of service with Felda is null and void and/or invalid was dismissed with costs as all due process and procedure of termination of service of an employee of Felda have been duly complied with.

[Plaintiff's application dismissed with costs].

Cases referred to:

Fazil b Mohamed Noor v. University Techonologi Malaysia [1981] CLJ 85 / [1981] 1 MLJ 196 ***(refd)***

Insp. General of Police v. Alan Noor [1988] 1 MLJ 261 ***(refd)***

Ketua Pengarah Kastam v. Ho Swam Seng [1977] 2 MLJ 152 ***(refd)***

Legislation referred to:

Federal Constitution, Articles 4, 8

Land Development Act 1956

Land Development (Conditions of Service of Officers and Servants) Regulations 1970, Regulations 35 to 48

For the plaintiff - M/s. Khana & Co.
For the defendant - M/s. Abdullah & Zainuddin

JUDGMENT

Ee Chin Seng JC:

This is an application by the plaintiff, an employee of the defendant for a declaratory order that his dismissal by the defendant was null and void. The plaintiff/applicant, Nordin bin Othman, was employed as a confirmed and permanent clerk with the defendant, Federal Land Development Authority (hereinafter referred to as Felda) at the time of dismissal effective on 27 July 1989. This application is by way of an originating summons (Encl. 1) in which the following orders are prayed and asked for:

(a) that his termination as a clerk by his employer, Felda is null and void and/or invalid;
(b) that he be re-instated to his original post and be paid all arrears of salaries and other benefits and;
(c) interest.

In support of that application the said plaintiff filed an affidavit (Encl. 2) duly affirmed by him on 9 December 1989 wherein he deposes, *inter alia*, briefly as follow:

(i) He was employed as a clerk of Category C11 since 1 March 1973 and was confirmed as a general clerk on 1 March 1975. His service was terminated by a letter dated 27 June 1989 duly signed by the Personnel Director (Pengarah Perjawatan);
(ii) A show cause letter dated 17 June 1989 was issued and received by the plaintiff. The plaintiff was given two weeks, that is by 31 June 1989 to reply. He did reply on same day of 17 June 1989;
(iii) Following that dismissal he was given 3 months' salary in lieu of notice;
(iv) He appealed to the Chairman of the defendant by a letter dated 9 July 1989 but his appeal was turned down.

Based on the above facts the plaintiff contends that:

(a) Since the defendant (Felda), a statutory body being created by an Act of Parliament the power of dismissal of any employee is vested only with its Chairman;
(b) Representation on dismissal of any defendant must be made to the Chairman or the Chairman must on his own find the employee guilty of unsatisfactory work or

misconduct which he finds merits in his dismissal.

The plaintiff further contends that his dismissal is null and void because the Chairman never participated in the dismissal procedure. To strengthen or supplement that argument the plaintiff states that:

(i) it was unreasonable on the part of the defendant not to accept his explanation;
(ii) the charge preferred against him departmentally devoid of substance to warrant such dismissal. Assuming that he was guilty of that wrong, which he denies, it is not serious to warrant a dismissal;
(iii) The Chairman never entertained his appeal though he is statute bound to hear his appeal.

Another aspect of the contention of the plaintiff that such dismissal is null and void is that the act of dismissal is contractual and not disciplinary. As a permanent staff his service with the defendant could not be terminated on 3 months' notice or be given 3 months' salary in lieu of notice. Thus such dismissal is *ultra vires* the Felda Act; and/or unreasonable; and/or in breach of natural justice.

To the above allegation, the said personnel director (Pengarah Perjawatan) Encik Ahmad Idris bin Talip filed an affidavit (Encl. 4) duly affirmed on 23 August 1991 and deposes, *inter alia*, briefly as follows:

(a) The plaintiff being employed as the general clerk of the defendant is bound by the Land Development Ordinance 1956 and Land Development (Conditions of Service of Officers and Servants) Regulations 1970;
(b) He was issued a show cause letter (Exhibit P2) because the audit report reveals that the plaintiff had abused or misused his position. Action taken against the plaintiff by the defendant was regular and proper as required under Regulation 35 which reads, *inter alia*, as below:

> Where it is represented to the Chairman by the General Manager or is found by the Chairman that an officer is guilty of unsatisfactory work or misconduct and such work or misconduct, in the opinion of the Chairman, merits dismissal or reduction in rank, the following provision shall apply:
>
> (i) The Chairman shall after considering all the available information in his possession that there is a *prima facie* case for dismissal or reduction in rank, cause to be sent to the officer a statement in writing, of the ground on which it is proposed to dismiss the officer or reduce him in rank and shall call upon him to state in writing within a period of not less than 14 days a representation containing grounds upon which he relies to exculpate himself.

(a) The answer to the show cause letter (Exhibit P3) discloses no defence at all but only an admission and prayer for forgiveness and lighter punishment;
(b) His reply had been discussed and considered by the Chairman at the Personnel Executive Council Meeting on 27 June 1989 in which it was decided that the plaintiff's service be terminated. Action taken by the defendant is appropriate in accordance with Regulation 35(iii) where it is stated that:

> If the officer does not furnish any representation within the time fixed, or if he furnishes a representation which fails to exculpate himself to the satisfaction of the Chairman, the Chairman shall then proceed to consider and decide on the dismissal or reduction in rank of the officer;

(c) The plaintiff and defendant are not on contractual relationship but the defendant is bound by the Ordinance and Regulations mentioned above. The plaintiff is dismissed appropriately under and bound by Regulation 48 which reads as follows:

> Notwithstanding the foregoing Regulations the Authority may at any time terminate the employment of any officer without any reason being assigned on giving to the officer: (a) in the case of an officer not on probation and drawing an inconclusive salary of RM850 per month and above, 3 months' notice in writing or on paying him 3 months' inclusive salary at the rate then payable in lieu of notice.

(d) The plaintiff's appeal was considered by the Chairman at another Executive Council meeting held on 26 July 1989. The said Council dismissed the appeal *vide* a reply of Exhibit P6. This decision was confirmed by the defendant's Board. Thus the allegation that the Chairman did not attend to and failed to consider the appeal is untrue without any basis. Hence his dismissal is in accordance with the law and the plaintiff's claim does not arise.

Gist of Submission by the applicant/plaintiff

The plaintiff was dismissed by the defendant, Felda as a general clerk of permanent status. There are two provisions under which the defendant could be dismissed from his job that is, Regulation 35 or Regulation 48 under the Land Development (Conditions of Service of Officers and Servants) Regulation 1970. Three documents are connected and relevant to the episode of dismissal of the plaintiff. They are:

(1) Exhibit P2: Show cause letter dated 17 June 1989 issued by the Pengarah Perjawatan, that is, Personnel Director;
(2) Exhibit 3: A reply dated 17 June 1989 from the plaintiff given to the said Pengarah Perjawatan;
(3) Exhibit P4: A termination letter dated 27 July 1989 Exhibits P3 and P4, in order of sequence, were prepared after the show cause letter of P2 was sent to the plaintiff. This termination letter of P2 was signed by the Pengarah Perjawatan pursuant to Regulation 35. In exhibit P4 it was revealed that the decision of the dismissal of the plaintiff was taken by Jawatankuasa Perjawatan and not the Chairman but such power of dismissal under Regulation 48 is expressly given only to the Chairman and nobody else. Should any other person exercise that power such exercise of power will be invalid. A case in point is *Fazil b Mohamed Noor v. University Technologi Malaysia* [1981] 1 MLJ 196 Federal Court.

As the power of dismissal was exercised by the Jawatankuasa Perjawatan, the defendant (Felda) is estopped by their own conduct and documents to state that the plaintiff was dismissed by the Chairman pursuant to Regulation 48 but no evidence was produced in order for the defendant to invoke Regulation 48. Exhibits P2 and P4 were required to be in writing pursuant to Regulation 35. A Supreme Court case of *Insp. General of Police v. Alan Noor* [1988] 1 MLJ at 261 is referred.

Gist of Reply by the respondent/defendant

The issue in this case posed by the plaintiff is whether Regulation 35 of the Land Development (Conditions of Service of Officers and Servants) Regulation 1970 has been followed by the defendant. Under this Regulation 35 it is stated that:

> The Chairman shall after considering all the available information in his possession that there is a *prima facie* case for dismissal or reduction in rank cause to be sent to the officer a statement in writing ....

Under this Regulation 35 it is contended that the personnel director being in charge of the running of the personnel matters is under the direction of the Chairman to cause to be sent a statement in writing ... to the officer concerned. That was why a show cause letter was despatched to the plaintiff containing the alleged charges on which he was subsequently dismissed. If the interpretation is so stringent (tepat) that the Chairman could not give such order or exercise such statutory power then the defendant should make a more specific declaration that Regulation 35 is *ultra vires* Land Development Act and as such the action taken under Regulation 35 is not proper in compliance with Regulation 35.

In the alternative submission, defendant refers to the minute of the meeting of the Personnel Executive Council (i.e. Jawatan Kuasa Perjawatan) dated 26 July 1989 wherein it was stated that plaintiff's service was terminated under Regulation 48. Under this Regulation 48 notwithstanding the foregoing regulation Felda is empowered to terminate the service of an officer without giving any cause either by 3 months notice or be paid 3 months salaries in lieu of notice. Thus this can be interpreted to mean that Regulation 48 can stand on its own notwithstanding the foregoing regulation of Regulation 35. Following that disciplinary action taken against the plaintiff which is upheld and confirmed under Regulation 48 independently of Regulation 35. Therefore, the said action taken against the plaintiff is in compliance with the requirement under the Land Development (Conditions of Service of Officers and Servants) Regulation 1970.

Rebuttal by the Plaintiff

To the above contention of the defendant the plaintiff submits two points in rebutting such a view adopted by the defendant i.e. the defendant have powers under Regulation 48 to terminate any employee at any time with 3 months' notice without assigning any reason. The two points are:

(1) the principle of estoppel applies against defendant whereby the defendant is estopped by own conduct and
(2) Regulation 48 is subservient to Article 8 of the Federal Constitution as Federal

Constitution is the supreme law of the country as stated in Article 4.

(a) Estoppel

A show cause letter dated 17 June 1986 (Exhibit P2) was issued by the defendant to the plaintiff pursuant to Regulation 35 (i). The plaintiff gave a reply (Exhibit P3) to the said show cause letter of P2. Both these actions are governed by statutory provisions. The Chairman of the department invoked Regulation 35 (viii) and dismissed the plaintiff without executing the mandatory provisions of Regulation 35 (iv), (v), (vi), (vii), Regulations 36 and 37. As the plaintiff's service was terminated by the defendant under Regulation 35 the defendant is estopped from resiling from the acts done under Regulation 35 to Regulation 48. Promissory estoppel binds a public body or a government as much as it binds an individual.

(b) Regulation 48 ultra vires Article 8 of the Federal Constitution

Defendant claim to be empowered to dismiss any employee without assigning any reason. Regulation 48 a secondary legislature is made pursuant to the Enabling Act i.e. the Land Development Act 1956 which is in turn subservient to the Federal Constitution. By virtue of Article 8 of the Federal Constitution it guarantees equality before the law and the rule of natural justice is envisaged therein. Here, it is the plaintiff's contention that Regulation 48 does not guarantee such application of the rules of natural justice. Regulation 48 is thus void which violates Article 8 of the Federal Constitution.

Following the two point contention advanced by the plaintiff defendant was asked by the Court to submit which they do. Their submission can be briefly summarised as follows:

The Issue of Estoppel

The Plaintiff contends that the defendant is estopped by conduct from resorting to Regulation 48 of the Land Development (Conditions of Service of Officers & Servants) Regulation 1970 because the defendant has evoked Regulation 35(i), (ii) & (iii) and should have further evoked the mandatory Regulation 35 (iv), (v), (vi) & (vii) to be followed by Regulations 36 & 37. Defence's view is that the said provisions of Regulation 35 (iv), (v), (vi) & (vii) are not mandatory. Regulation 35 (iv) stipulates that:

> where the chairman considers that the case against the officer requires further clarification, he may appoint a committee of enquiry...

The above shows that an inquiry committee be set up for clarification if the chairman considers necessary. Here he dispenses with that necessity because there is no need for that. Regulation 36 provides an avenue for the aggrieved or affected person's appeal and such exercise of the right is within the domain or discretion of the officer concerned and not that of the Chairman. Regulation 37 has been complied with as minutes of Board Meetings held on 8 July 1989 and 11 December 1989 show as illustrated in the affidavits in Reply of Ahmad Idris Talib. Actions have been commenced under Regulation 35 against the plaintiff but it does not prevent the defendant from deciding under Regulation 48 to terminate the service of the plaintiff which could be done without giving any reason except to give 3 months' notice or 3 months' pay in lieu of notice. The reply of the plaintiff (i.e. exhibit P3) is only an admission of the guilt for which the plaintiff asks for forgiveness for the offence committed by him. This prompted the defendant in terminating the service of the plaintiff under Regulation 48 and the plaintiff would definitely be aware of the exact nature of the reasons and grounds of such dismissal. This cannot be said that the defendant is thus estopped from carrying out such statutory duty and obligation under Regulation 48 which gives the defendant power of termination without giving reasons.

Regulation 48 ultra vires Article 8 of the Federal Constitution?

Article 8 of the Federal Constitution reads as follows:

(1) All persons are equal before the law and entitled to the equal protection of the law;
(2) Except as expressly authorised by this constitution, there should be no discrimination against citizens on the grounds only of religion, race, descent or place of birth in any law or in the appointment of any office or employment under a public authority or in the administration of any law relating to the acquisition, holding or disposition of property or establishing or carrying on of any trade, business, profession, vocation or employment.

The aforesaid Article 8 does not envisage the application of the rules of natural justice *in toto*. It ensure that there shall be no discrimination or classification of persons by virtue of certain factors.

There are two main components of the rules of natural justice which are:

(i) *audi alteram partem* i.e. the rule of hearing, that is, no one should be condemned unheard;
(ii) *nemo judge in causa sua*, that is, the rules against bias i.e. no one may be a Judge in his own cause.

The issue is: has the defendant breached the rule of natural justice, that is to say, the right to be heard?

In the case of *Ketua Pengarah Kastam v. Ho Swan Seng* [1977] 2 MLJ 152, Raja Azlan Shah FJ (as he then was) states that:

> The hearing may take many forms and strict insistence upon an inexorable right to the traditional Courtroom procedure can lead to a virtual administrative breakdown.

Defence also contends that natural justice does not necessarily imply the best possible justice; all that is required is a form of justice which is reasonably fair in the circumstances of the case. Natural justice only sets certain standards of procedural fairness in adjudication.

There is no fixed hearing procedure, it varies from situation to situation. There are various forms of hearing procedure which can be resorted to, for example oral hearing, written representation, consultation or dialogue between decision making authority and the affected person.

In the present case the plaintiff was issued with a show cause letter dated 17 June 1989 (Exhibit P2) as to be alleged offence committed by him. On 19 June 1989 the plaintiff gave a reply of Exhibit P3 which, judging by its content is not a defence nor an exculpatory representation but an admission of guilt or wrong. He asked for forgiveness on family compassionate ground. This explains the reason why the Chairman felt that he required no further clarification as underlined in Regulation 35 (iv) by empanelling a committee of inquiry.

Therefore, defence contends that the rule of natural justice i.e. *audi alteram partem* is not being breached by the defendant because he was aware of the charge against him, he was given a chance to show cause and he gave a reply. Knowing the nature and gravity of the complaint he admitted the wrong and asked for forgiveness. He is thus given a chance to be heard.

On the second limb of the rule of natural justice, that is, rule against bias there exists none whatsoever. Determination and decision were made with regards to the plaintiff's service which was terminated under Regulation 48 which does not contravene or *ultra vires* Article 8 of the Federal Constitution which abhors bias or discrimination by virtue of race, ethnic, religion. None exists in this whole episode of termination of the plaintiff's service with Felda.

Conclusion

Facts of the whole episode of the plaintiff's termination of service with defendant, Felda can be marshalled from the affidavit and documentary evidence made available in this application. They are as follow:

(a) From an audit report Felda came to know of the plaintiff, one of their permanent clerks, of having committed serious wrong by abusing and misusing his position. This prompted Felda to despatch a show cause letter dated 17 June 1989 (Exhibit P2) to him containing the alleged incidents of abuses giving him up to 31 June 1989 i.e. two weeks to reply;
(b) To this the plaintiff responded with a letter dated 19 June 1989 (Exhibit P2) which contains his admission of the wrong committed by him but he asks for forgiveness on compassionate grounds;
(c) It can therefore be logically inferred that the plaintiff is fully and completely aware of the nature and gravity of the wrong committed by him in his capacity as a permanent clerk with the defendant. That explains why he failed to put up a satisfactory explanation as his defence in the show cause reply of Exhibit P3. As a matter of fact he can either deny the charges completely or explain and justify his action which tends to show that he has acted within his scope of duty and responsibility as a clerk. Since he has chosen not to do so which he is given the right and opportunity to clear his name under the show cause letter he is deemed to have waived that right. He is given a chance to be heard by way of his explanation, reply or

representation in whatever written form. Thus it complies with the time honoured principle of the rule of natural justice i.e. the right to be heard and *audi alteram partem*, that is, it is not breached;

(d) The show cause action was initiated under Regulation 35 against the plaintiff but he was dismissed under Regulation 48 under such exercise of termination of service he was given 3 months' salary in lieu of 3 months' notice;

(e) The plaintiff appealed to the Chairman of Felda in writing by a letter dated 9 July 1989 but his appeal was rejected *vide* Exhibit P4 which decision was conveyed through Jawatan Kuasa Perjawatan i.e. Personnel Executive Council Committee.

The main issues raised by the plaintiff as the principal thrust in their contention in this declaratory order application can tersely be grouped into five aspects namely:

(i) the termination is null and void and/or invalid;

(ii) the right of exercise of such power of termination is vested with the Chairman of a statutory body such as Felda which was created by the Act of Parliament;

(iii) since the act of dismissal was not done by the Chairman and this act purportedly under Regulation 48 is thus *ultra vires* Article 8 of the Federal Constitution;

(iv) As action taken against the plaintiff was commenced under Regulation 35 (i) and ended by the plaintiff's dismissal under Regulation 35(viii) without evoking the mandatory provisions of Regulation 35(iv), (v), (vi), (vii), Regulations 36 & 37 it cannot now be allowed to resile from that fact by saying the termination was done under Regulation 48. The defendant is estopped from making that claim;

(v) Action under Regulation 48 is *ultra vires* Article 8 of the Federal Constitution.

This is an action brought by the plaintiff against Felda for a declaration that the purported dismissal by the defendant, Felda was null and void and/or invalid and that the plaintiff is entitled to be restored to his former position as a general clerk of permanent status and be paid his salary and all other relevant emoluments and benefits which go along with the job. The focal point in this whole argument seems to fall on the question of whether or not the purported dismissal was validly made. Therefore Felda can only act in pursuance of the power given to it by law. This means it has to follow proper procedure as prescribed by law before condemning an erring member of the staff. If it goes outside its limit of operation, or is not warranted by it, then any decision made by it is *ultra vires*.

On close scrutiny of the procedure adopted resulting in the dismissal of the plaintiff the relevant regulation that activates the dismissal process is Regulation 35. It has been complied with. Representation has been made to the Chairman that the plaintiff is guilty of unsatisfactory work or misconduct which merits his dismissal or reduction in rank. Show cause letter containing statement of alleged wrongs committed by the plaintiff with 2 weeks to reply in the form of representation containing grounds upon which he relies to exculpate himself was sent to him. The plaintiff provides no grounds in the representation upon which he relies to exculpate himself because he produces none except that he asked for forgiveness and lighter punishment for the wrong committed by him. Further Regulation 35(iii) states, *inter alia*, that

> If the officer does not furnish any representation within the time fixed or if he furnishes a representation which fails to exculpate himself, the Chairman shall proceed to consider and decide on the dismissal or reduction in rank of the officer.

Minutes of the committee meeting as exhibited will confirm that the Executive Council Committee meeting headed by the Chairman decided dismissal instead of reduction in rank. Obviously, matter must have been discussed and the wrong committed must appear serious to warrant such harsh action instead of the reduction in rank. At certain stage of the submission it was suggested by learned Counsel for the plaintiff that dismissal order was too harsh and it was unreasonable on the part of the defendant, Felda not to accept the plaintiff's explanation. It is the considered view of this Court the question of correct quantum of punishment is beyond the scope and jurisdiction of this Court as the management committee of Felda know best what sort of appropriate punishment for certain particular misconduct or wrong committed by their erring staff. Besides, the question of punishment is not one of the prayers asked for. Under Regulation 35 the committee proceeded to consider after the plaintiff in letter of P3 had admitted to committing

the offence and decided to terminate his service. One cannot really find fault with this procedure along the line, at least, of logical sequence and consequence. This dismissal under Regulation 35 is a procedural right which spells out the guideline and path that the committee must take and abide. Regulation 48, notwithstanding any other preceding regulations, empowers Felda an additional right independently to terminate an officer by giving him 3 months' notice or 3 months' pay in lieu of notice without assigning any reason for doing so. This exercise of the right under Regulation 48 is not *ultra vires* to Article 8 of the Federal Constitution because it has not breached the principle of natural justice because he was given a chance to make his representation to exculpate himself from the blame or alleged wrong or misconduct as underlined in the audit report. He chose to admit his guilt and asked for forgiveness. His reply can be treated as some form of representation or can be said to be waiving his right of defence or right of representation. Hence there is no doubt whatsoever as to his guilt as admitted by him. The Felda Chairman has rightly dispensed with holding an inquiry by committee to establish the guilt or innocence of such act allegedly committed by the plaintiff. With this factual backdrop of the circumstances as described above it is definitely wrong to say that the plaintiff was not given a right to be heard thereby running foul with the principle of natural justice. As to the other component of natural justice on the question of bias, discrimination there is not a simple *iota* of evidence to say or suggest otherwise.

In the light of the above I dismiss the plaintiff's application for a declaratory order that the plaintiff's termination of service with Felda is null and void and/or invalid with costs and hold that all due process and procedure of termination of service of an employee of Felda have been duly complied with.

SI KHIONG INDUSTRIES SDN. BHD.

v.

LIAU SHU CHAU (TRADING AS SYARIKAT MAJU JAYA AGENCY)

HIGH COURT, TAWAU
TUAN IAN H.C. CHIN JC.
[SUIT NO. T 276 OF 1986]
1 MARCH 1993

TORT: Trespass & conversion - Whether committed - Trucks subject-matter of sale between plaintiffs and defendant - Refinancing of purchase - Arrangement with bank by way of bills discounting - Bills of exchange executed by plaintiffs as drawers and defendant as acceptors - Bank both holder and payee - Delivery up of executed blank transfer forms, registration cards and bills of exchange to bank - Whether trucks meant to be pledged to bank - Plaintiffs endorsers of bills of exchange - Default by defendant of the bills - Possession taken of trucks by plaintiffs before amount due under bills paid to bank - Whether plaintiffs entitled to do so - Whether plaintiffs surety for the payment to the bank - Whether entitled to securities deposited with bank - Section 94, Contracts Act 1950 - Common law - Counterclaim - Whether properly brought - Pledge of trucks - Bailment - Defendant bailor - Whether defendant had right to sue - Sections 125, 131 & 133, Contracts Act 1950 - Trespass & conversion - Repossession and sale of trucks by plaintiffs - No prior demand made by defendant for delivery up of trucks - Whether prior demand relevant to trespass and conversion.

BAILMENT: Removal of trucks - Trespass and conversion - Whether bailor had right to sue.

The defendant claimed against the plaintiffs for damages for trespass and conversion in respect of two logging trucks which the defendant alleged the plaintiffs had wrongfully taken and removed from the defendant's possession in January 1985. The trial was solely in respect of this counterclaim.

In 1983, the plaintiffs sold two trucks to the defendant at a total price of RM290,000. A certain sum for the balance was outstanding for sometime. The defendant also owed the related companies of the plaintiffs some other sums. The plaintiffs arranged with a bank for a sum of RM110,000 to refinance the purchase of the trucks by way of bills discounting so that the plaintiffs and its related companies could be paid the debt owing by the defendant. Twelve